

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUDGE BUCKLE

MAGISTRATE JUDGE MASON

SURFACE SHIELDS, INC.

Plaintiff,

v.

POLY-TAK PROTECTION SYSTEMS, INC.

Defendant.

02C 7228
Case No.
DOCKETED

OCT 10 2002

Jury Trial Demanded

U.S. DISTRICT COURT

OCT 9 AM 8:30

FILED-504

COMPLAINT

Plaintiff, SURFACE SHIELDS, INC. ("Surface Shields"), by and through its attorneys, THE COLLINS LAW FIRM, P.C., of counsel, for its Complaint against Defendant, POLY-TAK PROTECTION SYSTEMS, INC. ("Poly-Tak"), states and alleges as follows:

NATURE OF THE ACTION

To eliminate Surface Shields from the marketplace and gain control over a substantial percentage of the adhesive film industry, the Defendant directed and controlled a campaign of commercial espionage by searching through Surface Shields' garbage and stealing critically important customer information. Based on information learned from the espionage, the Defendant maliciously interfered with Surface Shields' customer relationships by deliberately driving down the profit that Surface Shields could earn from its long-standing and repeat customers. Poly-Tak also used the stolen information to interfere with Surface Shields' prospective customers. Surface Shields brings this action to seek redress for the Defendant's illegal actions.

PARTIES

1. Plaintiff Surface Shields is an Illinois corporation, having its principal place of business in Tinley Park, Illinois. Surface Shields is a citizen of the State of Illinois. Surface Shields, *inter alia*, is a national supplier of adhesive films for various industrial purposes.

2. Defendant Poly-Tak is a California corporation, having its principal place of business at 5731 McFadden Avenue, Huntington Beach, California, 92649. Poly-Tak is therefore a citizen of the State of California. Poly-Tak is a national supplier of temporary adhesive films to the construction, recreational vehicle, building, marine, and retail markets.

JURISDICTION and VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 (a) (1), based upon the complete diversity of citizenship of the parties and the amount in controversy far exceeding the jurisdictional minimum of \$75,000.

4. Venue is proper in this District, *inter alia*, pursuant to 28 U.S.C. § 1391, because this case arises out of actions which occurred, at least in part, within this Judicial District. These include, *inter alia*:

(a) Defendant has interfered with the business relationships of an Illinois corporation located within this Judicial District.

(b) Defendant has employed the use of a resident of this Judicial District to engage in commercial espionage to find out information about Surface Shields' customers and pricing. The commercial espionage, which took place in this Judicial District, provided the vehicle by which Defendant has been able to adversely impact the profitability of Surface Shields, unfairly compete against Surface Shields, and interfere with Surface Shields' relationships.

GENERAL ALLEGATIONS OF FACT

5. Surface Shields and Poly-Tak are competitors in the adhesive films industry. Combined, they supply approximately 50% of the adhesive film marketplace.

6. Surface Shields has spent approximately 10 years and millions of dollars establishing and solidifying its brand identity within the industry.

7. Beginning in approximately 2001, and potentially earlier, Poly-Tak began using a resident of this Judicial District, (hereafter, the "Spy") to engage in commercial espionage in an effort to destroy and interfere with Surface Shields' business relationships with the ultimate goal of putting Surface Shields out of business.

8. Poly-Tak directed the Spy to search and steal documents located in a dumpster at Surface Shields' corporate headquarters.

9. On approximately a weekly basis, the Spy would search Surface Shields' dumpster and haul away the contents to a warehouse located within this Judicial District.

10. From the warehouse, the Spy would mail the stolen contents to Poly-Tak in California.

11. These documents contained information that Surface Shields relied on for its business including, *inter alia*, customer and pricing information, prospective customer quotations, as well as raw material acquisition costs.

12. Poly-Tak relied on the stolen information for the purpose of interfering with Surface Shields' existing and prospective customer relationships and to drive Surface Shields out of business. Poly-Tak used the stolen information in at least two ways:

(a) With the intent to eliminate Surface Shields as a competitor, Poly-Tak drove down Surface Shields' profit. After unsuccessful attempts to earn business from Surface

Shields' customers, Poly-Tak would still offer pricing known to be at or below Surface Shields' acquisition costs. Such costs were obtained by espionage activities. Poly-Tak undertook these actions for the improper purpose of destroying Surface Shields.

(b) Poly-Tak relied on the stolen documents to devastate the competitive pricing that Surface Shields had with its existing customers. As a result, Surface Shields lost several large customers.

COUNT I

TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE/ UNFAIR COMPETITION

13. Surface Shields repeats, realleges and incorporates by reference Paragraphs 1-12, as if fully set forth herein.

14. Surface Shields had a reasonable expectation of continuing valid and profitable business relationships with the customers that were the subject of the misconduct alleged in this Complaint. Indeed, Surface Shields had received regular, continuous, on-going, and profitable orders from these customers in the past. Surface Shields regularly enjoyed on-going business transactions at a predictable and profitable rate.

15. Poly-Tak was aware of Surface Shields' expectancy of entering into and continuing valid business relationships with its customer by its commercial espionage activities and also by virtue of its knowledge of the adhesive film industry.

16. Notwithstanding Poly-Tak's knowledge of Surface Shields' ongoing customer relationships, Poly-Tak purposefully, maliciously and unlawfully interfered with these relationships to prevent Surface Shields' legitimate expectancy from ripening into ongoing, valid, and profitable business relationships. Poly-Tak's interference was done for the improper

and spiteful purpose of harming Surface Shields and driving it out of business, rather than for a legitimate competitive purpose. Furthermore, Poly-Tak interfered with Surface Shields' prospective economic advantage by intentionally driving down Surface Shields' profit by substantially underbidding Surface Shields even after Poly-Tak knew it was unable to obtain such business. Poly-Tak's actions were wrongful in that they were done for the spiteful purpose of driving Surface Shields from the marketplace and interfering with free and open competition.

17. Surface Shields has been damaged from such interference, *inter alia*, by losing profit (or a portion of profit) that would have been earned on sales had Poly-Tak not interfered. The amount of such sales known presently greatly exceeds \$2,000,000. The amount of damages sustained to date, as well as future damages, will be proven at trial. That amount greatly exceeds the jurisdictional requirement.

Relief Requested

WHEREFORE, Plaintiff Surface Shields requests that this Court enter judgment in its favor and against Defendant Poly-Tak, as follows:


- (a) Award Surface Shields its monetary damages, including future profits, in an amount to be proven at trial;
- (b) Award Surface Shields punitive damages to the extent permitted by law; and
- (c) Award Surface Shields its costs of suit and such other relief as this Court deems just and proper.

Jury Trial Demanded

Plaintiff Surface Shields request trial by jury on all issues so triable.

Dated: October 9, 2002

Respectfully submitted,
SURFACE SHIELDS, INC.

By: 
One of its attorneys

Edward J. Manzke
David J. Fish
THE COLLINS LAW FIRM, P.C.
1770 North Park Street, Suite 200
Naperville, Illinois 60563
(630) 527-1595

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

Surface Shields, Inc.

JUDGE BUCKLO

02C 7228

DEFENDANTS

Poly-Tak Protection Systems Inc.

DOCKETED
OCT 10 2002

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

MAGISTRATE JUDGE MASON

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

The Collins Law Firm, P.C.
200 N. Park Street, Suite 200
Naperville, IL 60563

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

Intentional Interference of Economic Expectancy

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

| CONTRACT | TORTS | | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|---|---|---|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 180 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | | | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights | | | |

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$
75,000.00

Check YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NO

VIII. REMARKS

In response to ☒ is not a refiling of a previously dismissed action

General Rule 2.21D(2) this case ☐ is a refiling of case number _____ of Judge _____

DATE 10/9/02

SIGNATURE OF ATTORNEY OF RECORD

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

JUDGE BUCKLO

MAGISTRATE JUDGE MASCO

In the Matter of

Eastern Division

Surface Shields, Inc.

v.

Poly-Tak Protection Systems, Inc.

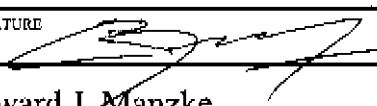

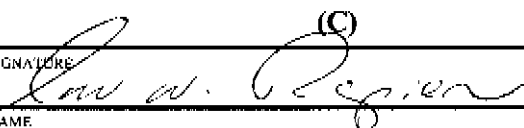
02C 7228

Case Number:

DOCKETED
OCT 10 2002

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Surface Shields, Inc.

| (A) | (B) |
|---|--|
| SIGNATURE  | SIGNATURE  |
| NAME Edward J. Manzke | NAME David J. Fish |
| FIRM The Collins Law Firm | FIRM The Collins Law Firm |
| STREET ADDRESS 1770 N. Park Street, Suite 200 | STREET ADDRESS |
| CITY/STATE/ZIP Naperville, IL 60563 | CITY/STATE/ZIP |
| TELEPHONE NUMBER (630) 527-1595 | TELEPHONE NUMBER |
| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06209413 | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6269745 |
| MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> |
| TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> |
| | DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (C) | (D) |
| SIGNATURE  | SIGNATURE |
| NAME Aaron W. Rapier | NAME |
| FIRM The Collins Law Firm | FIRM |
| STREET ADDRESS | STREET ADDRESS |
| CITY/STATE/ZIP | CITY/STATE/ZIP |
| TELEPHONE NUMBER | TELEPHONE NUMBER |
| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6270472 | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) |
| MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> | MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/> |
| TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> | TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/> |
| DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/> | DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/> |

1-3